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OFFICE OF PETITIONS

In re Application of :  
Dennis Palatov et al :  
Application No. 09/506,261 : DECISION GRANTING PETITION  
Filed: February 17, 2000 : UNDER 37 CFR 1.137(b)  
Attorney Docket No. MGANO.010A :  
:

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed July 31, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 1, 2002. The file record fails to indicate that a Notice of Abandonment was ever mailed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) an acceptable statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of July 31, 2002 is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

In view of the nonacceptance of the power of attorney received June 1, 2004, a courtesy copy of this decision is being mailed to petitioner herein. However, until such time as an acceptable power of attorney is received, all future correspondence will be mailed to the above-noted address.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 2611 for appropriate action as the nature of the case may require.

*Frances Hicks*  
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Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc:

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